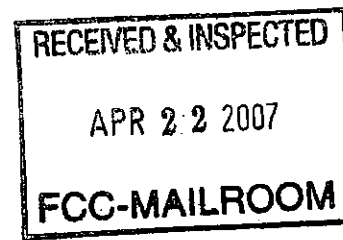


91-281



PETITION OF LIBERTY PUBLIC SCHOOL DISTRICT
FOR WAIVER OF FEDERAL COMMUNICATIONS COMMISSION
REGULATIONS AT 47 C.F.R. §64.1601(b)
RE: CALLING PARTY NUMBERS

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Executive Summary

The Liberty Public School District is requesting a limited waiver of the Federal Communications Commission regulations at 47 C.F.R. §64.1601(b), which restrict telecommunications carriers from transmitting caller ID numbers, also known as "calling party numbers," when requested by the calling party. The limited waiver requested by LPS is intended to protect the privacy rights of the vast majority of callers who request that their calling party numbers be restricted, while at the same time allowing LPS security personnel to deal more effectively with threatening calls that are of grave concern.

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

CC Docket No.

**PETITION OF LIBERTY PUBLIC SCHOOL DISTRICT
FOR WAIVER OF FEDERAL COMMUNICATIONS COMMISSION
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RE: CALLING PARTY NUMBERS**

I. Introduction

The Liberty Public School District (LPS) respectfully petitions the Federal Communications Commission (FCC) for a limited waiver of FCC's regulations at 47 C.F.R. §64.1601(b). Under this regulation, telecommunication carriers are restricted from transmitting a calling party number (CPN) when the calling party requests such restriction. The limited waiver of this regulation requested by LPS will permit carriers to transmit the restricted CPNs of all calls terminating at LPS telephones to a call data information log located at LPS's Central Office Switch. The CPNs would be stored for a limited period of time in order to allow specifically appointed security officers, law enforcement officials, and personnel to respond to threatening or harassing phone calls received at LPS. The purpose of this requested waiver is to allow LPS personnel and law enforcement to respond in a more timely and effective manner to these threatening or harassing telephone calls. Such waiver will satisfy the two-part standard established by the Commission and the courts for granting such waivers, namely, it furthers the public interest in protecting the health and safety of persons at LPS, and there are special circumstances and other

considerations that further justify the requested waiver.

II. Factual Background

LPS is a public school district, with a Central Office at 650 Conistor, Liberty, Clay County, MO 64068. LPS serves all of Liberty, Missouri a city of approximately 30,000, part of Kansas City, Missouri and parts of unincorporated Clay County, Missouri. At LPS, a workforce of 1,300 personnel provide education and services for 9,300 students, and try to achieve this in a safe and secure environment for the personnel and students. LPS's facilities and operations are spread out over a land area of approximately 30 square miles. As such, LPS provides some of its own security and telecommunications functions. Telecommunication assets supporting LPS operations include a Central Office Switch facility through which all external calls terminating at LPS are routed, this includes a voice over IP and 4 different T-1s in 3 different locations which then distribute to all other LPS locations. Within the Central Office Switch is a call information data log capable of recording all originating and terminating numbers.

As an educational establishment, LPS has been the subject of a number of harassing and threatening phone calls. Between 6 and 10 threatening calls, that are considered serious in nature, are received each year at a variety of LPS locations including, but not limited to, bomb threats and threats towards personnel.

Unfortunately, the parties perpetrating these calls often use the CPN restriction in order to prevent authorities from timely identifying their location. As the telecommunications carriers serving LPS are bound by the above-referenced regulation, they will not transmit restricted CPNs to LPS, thereby requiring security personnel and other law enforcement to request a trace of such calls. The process involved in tracing a threatening telephone call to its originator can take up to a week to accomplish, and this

delay provides the perpetrator of the call the time necessary to evade apprehension and/or act on the threats made.

As one can imagine with so many students' and personnel members' safety involved, time is of the essence in locating the originator of the threatening phone calls received at LPS, and the time required to trace these calls back through the various telecommunication carriers has significantly hampered and delayed the identification and apprehension of the perpetrators. The risk to LPS is evident. The amount of time it takes to effectively identify and apprehend those responsible for the above-described security threats can be significantly reduced by allowing LPS to have access to restricted CPNs at the time the calls are made. LPS is therefore requesting a limited waiver of 47 C.F.R. §64.1601(b), as discussed below, to enable security personnel to more timely identify and apprehend the perpetrators of these threats before they have an opportunity to act on them.

III. Protection of Privacy and Waiver Standards

Under 47 C.F.R. §64.1601(b), "[c]arriers must arrange their CPN-based services, and billing practices, in such a manner that when a caller requests that the CPN not be passed, a carrier may not reveal that caller's number or name, nor may the carrier use the number or name to allow the called party to contact the calling party." The purpose of this rule is to allow the calling public to exercise a measure of control over the dissemination of telephone numbers.¹ This rule recognizes that there is a privacy interest, not only in the persons receiving phone calls, but also in those persons making phone calls.

¹ *Rules and Policies Regarding Calling Number Identification Service - Caller ID*, 9 FCC Red 1764, ¶34 (1994) ("1994 Order").

However, the Commission has recognized that this general rule is not absolute, finding circumstances where the CPN will not be protected, regardless of the caller's privacy or personal security interests. For example, the Commission previously has concluded that, "to the extent that CPN based services are used to deliver emergency services, we find that privacy requirements for CPN based services should not apply to delivery of the CPN to a public agency's emergency line, a poison control line or in conjunction with 911 emergency services."²

Against this background, waiver standards have been developed under which the Commission or its delegate may waive §64.1601(b) where there is good cause for such waiver. Specifically, waiver may be granted by the Commission if (1) the waiver would better serve the public interest than would strict adherence to the general rule; and (2) special circumstances warrant a deviation from the general rule. Circumstances justifying a waiver include "considerations of hardship, equity, or more effective implementation of overall policy."³

Also, other considerations affecting a waiver include the ability to identify and articulate reasonable standards that are predictable and workable, and are not susceptible to discriminatory application.⁴ In summary, the Commission may grant waiver of its rules in a particular case only where the relief requested would not undermine the policy objective of the rule in question, and would serve the public interest.

² *Supra* Note 1, ¶37.

³ *WAIT Radio v. FCC*, 418 F.2d 1153, 1159 (D.C. Cir. 1969) ("*WAIT Radio*").

⁴ *Northeast Cellular Telephone Co., L.P. v. F.C.C.*; 897F2d at 1166

IV. LPS meets the Standards required for a Waiver of 47 C.F.R. §64.1601(b)

The public interests, special circumstances, and other considerations arising from the factual background presented in LPS's petition are strikingly similar to those previously considered by the Commission in a petition by INSIGHT 100 for waiver of §64.1601(b).⁵ INSIGHT 100, an organization comprised of public institutions such as universities and hospitals, provided residential facilities or services, as well as emergency, security, and telecommunications services, to defined geographic areas. INSIGHT 100 claimed that, because restricted CPNs were not being provided to it by telecommunications carriers, it was impaired in its ability to identify threats to on-campus residents or staff, or to dispatch emergency assistance to a caller to whom the university or hospital is responsible. INSIGHT 100 therefore petitioned for a waiver of §64.1601(b), stating that the telecommunication services provided by INSIGHT 100 entities included Central Office class equipment that could capture restricted CPNs without passing them on to the party called.⁶ Moreover, in its petition, INSIGHT 100 were not inadvertently or intentionally released to unauthorized persons.⁷

Applying the waiver standards to the facts underlying INSIGHT 100's petition, the Commission granted the waiver, finding that it would better serve the public interest for INSIGHT 100 entities to be able to provide rapid and appropriate responses to distress calls and threatening or abusive calls.⁸ Other considerations affecting the waiver included finding that only a narrow and well-defined class of

⁵ *INSIGHT 100*, 17 FCC Red 223

⁶ *Supra* note 8,

⁷ *Supra* 8,5, note 2

⁸ *Supra* note 8,19

public institutions qualified for such a waiver, making it predictable, workable, and not subject to discriminatory application.⁹

As in the case of INSIGHT 100, LPS is a public institution with authority over a distinct geographical area. Although LPS does not provide "residential facilities or services," it does provide work place facilities and services to approximately 1,300 employees, 15 schools, and 9,300 students.

Similar to INSIGHT 100, telecommunication carriers will not transmit restricted CPNs to LPS because of the restrictions contained in 47 C.F.R. §64.1601(b), and LPS security and other personnel are thereby prevented from timely identifying and locating harassing or threatening callers. LPS proposes to protect restricted CPNs that may be recorded in the Central Office switch by:

1. Operating and maintaining the Central Office switch in a secure facility;
2. Designated telecommunications and security personnel may access restricted CPN data only when investigating harassing or threatening phone calls, and shall document such access as part of the investigative report;
3. Any transmission by LPS of restricted CPNs to other law enforcement agencies will be via secure communications; and
4. Restricted CPNs will remain recorded in the Central Office data base for a reasonable period of time and then destroyed.

⁹*Supra* note 12

Under the above circumstances, granting a waiver of §64.1601(b) to LPS will better serve the public interest as it will allow LPS to provide rapid and appropriate responses to harassing or threatening calls, thereby increasing the safety and security of the LPS workforce and students. Furthermore, like INSIGHT 100, there are special circumstances that further warrant a waiver in that LPS provides both the personnel directly responsible for the students' safety, in the form of staff and security officers, and the end office telecommunication service (through a Central Office switch) to all locations within LPS's distinct geographical boundaries, and the security service would be impaired by any delay in obtaining CPNs. With regard to other considerations, a waiver granted to LPS - like INSIGHT 100 - is applicable only to a narrow and well-defined public institution, making it predictable, workable, and not subject to discriminatory application.

V. Conclusion

Granting the waiver requested in this Petition will serve the public interest by helping LPS protect the safety and security of some 10,600 persons at LPS. Specifically, the waiver will allow LPS personnel and security to identify and locate the perpetrators of harassing or threatening phone calls in a more timely and effective manner, before the perpetrators have the opportunity to evade authorities and/or act on the threats made. Granting this waiver to LPS will have only a negligible impact on caller privacy. Moreover, the procedures and safeguards proposed by LPS will ensure that restricted CPNs are not inadvertently or intentionally released. Accordingly, a waiver of 47 C.F.R. §64.1601(b) is justified and should be granted.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Jessie L. Simpson". The signature is fluid and extends to the right.

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